

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

Ameenah Hill,

Civil No. 04-4733 (DWF/AJB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Ronald J. Bathrick,

Defendant.

This matter came before the Court, United States Magistrate Judge Arthur J. Boylan, on plaintiff's motion to enforce settlement [Docket No. 6]. Hearing was held on June 2, 2003, at 638 U.S. Courthouse, 316 No. Robert St., St. Paul, Minnesota. The matter is properly before the Magistrate Judge for report and recommendation under 28 U.S.C. §636 and Local Rule 72.1(c). Plaintiff was represented by Jerome A. Ritter, Esq. Defendant was represented by Paul W. Rogesheske, Esq. Plaintiff's motion to enforce a settlement agreement was denied at hearing. For the reasons discussed below, it is recommended that the case be reopened and consolidated with two related cases involving the same defendant and having similar claims.

Report and Recommendation

The parties in this matter engaged in out-of-court settlement negotiations and came to tentative agreement regarding a sum of money (\$5000) which defendant would pay and plaintiff would accept in exchange for dismissal of the action. However, defendant insisted that any final settlement of this action was conditioned upon resolving two other related cases pending against the defendant at the same time. At some point during or after the settlement discussions plaintiff's counsel came to believe

that a separate and independent resolution of this case had been negotiated and the court was advised that the matter had been settled. The case was therefore dismissed by the District Court by Order dated March 24, 2005. Plaintiff moved to enforce the presumed settlement agreement when payment was not forthcoming. Defendant opposed the motion on grounds that no settlement was reached in light of the absence of a settlement of the two other related cases. This Court determined at hearing that there had been no settlement agreement and plaintiff's notice of settlement to the District Court was premature. The parties now agree that reopening this case and consolidating this matter with the other two related cases for purposes of trial is appropriate. All three matters were previously transferred and are now assigned to the same District Court Judge and Magistrate Judge.

Based upon the file and records in this matter, including the absence of an enforceable settlement agreement, the existence of related cases, and the agreement of the parties with respect to the reopening and consolidation, it is **HEREBY RECOMMENDED** that this case be **reopened** and that the cases entitled Hill v. Bathrick, Civil File No. 04-4733 DWF/AJB; Anderson v. Bathrick, Civil File No. 04-940 DWF/AJB; and Rosas v. Bathrick, Civil File No. 04-4381 DWF/AJB be **consolidated** for purposes of trial.

Dated: June 2, 2005

s/ Arthur J. Boylan
Arthur J. Boylan
United States Magistrate Judge